

IN THE UNITED STATES ARMY COURT OF CRIMINAL APPEALS

UNITED STATES

Appellee

**MOTION FOR LEAVE TO FILE
ASSIGNMENTS OF ERROR ON
BEHALF OF APPELLANT**

v.

Docket No. ARMY 20220659

PV1 (E-1)

NELSON A. TORRESJUAREZ,

United States Army,

Appellant

Tried at Fort Bliss, Texas, on
3 October 2022 and 15 December 2022,
before a general court-martial appointed
by the Commander, Fort Bliss, Texas,
Colonel Robert L. Shuck, military judge,
presiding.

TO THE HONORABLE, THE JUDGES OF THE
UNITED STATES ARMY COURT OF CRIMINAL APPEALS

COME NOW the undersigned appellate counsel, pursuant to Rule 23(d) of this Honorable Court's Rules of Appellate Procedure, and move for leave to file two assignments of error, in the above-captioned case. Undersigned counsel requests leave from this court to file a brief on behalf of appellant, within **seven** days after leave to file the brief has been granted. The brief on behalf of appellant will address the following assignments of error:

1. Assignment of Error II: WHETHER APPELLANT'S GUILTY PLEA TO SPECIFICATION 1 OF CHARGE II WAS IMPROVIDENT WHEN AT THE TIME OF THE CHARGED OFFENSE, THE SUBSTANCE, ADB-BUTINACA, WAS NOT LISTED AS A SCHEDULE I CONTROLLED SUBSTANCE IN SECTION 202 OF THE CONTROLLED SUBSTANCE ACT (21 U.S.C. § 812),

THE DRUG ENFORCEMENT ADMINISTRATION DID NOT ESTABLISH THE SUBSTANCE AS A SCHEDULE I CONTROLLED SUBSTANCE UNTIL AFTER THE TIME FRAME ALLEGED IN THE SPECIFICATION (88 FR 86266), AND NO EVIDENCE OF RECORD EXISTS TO CONCLUDE THE SUBSTANCE WAS A “DERIVATIVE” OR “COMPOUND” OF A SUBSTANCE LISTED IN ARTICLE 112A, UCMJ.

2. Assignment of Error III: WHETHER APPELLANT’S GUILTY PLEA TO SPECIFICATION 3 OF CHARGE II WAS IMPROVIDENT WHEN AT THE TIME OF THE CHARGED OFFENSE, THE SUBSTANCE, ADB-BUTINACA, WAS NOT LISTED AS A SCHEDULE I CONTROLLED SUBSTANCE IN SECTION 202 OF THE CONTROLLED SUBSTANCE ACT (21 U.S.C. § 812), THE DRUG ENFORCEMENT ADMINISTRATION DID NOT ESTABLISH THE SUBSTANCE AS A SCHEDULE I CONTROLLED SUBSTANCE UNTIL AFTER THE TIME FRAME ALLEGED IN THE SPECIFICATION (88 FR 86266), AND NO EVIDENCE OF RECORD EXISTS TO CONCLUDE THE SUBSTANCE WAS A “DERIVATIVE” OR “COMPOUND” OF A SUBSTANCE LISTED IN ARTICLE 112A, UCMJ.

PANEL NO. 2

MOTION FOR LEAVE TO FILE
ASSIGNMENT OF ERROR II
ON BEHALF OF APPELLANT

GRANTED: _____

DENIED:  _____

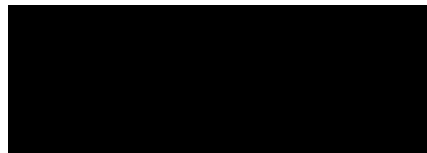
DATE: 29 August 2024

MOTION FOR LEAVE TO FILE
ASSIGNMENT OF ERROR III
ON BEHALF OF APPELLANT

GRANTED: _____

DENIED: 
 _____

DATE: 29 August 2024



Amir R. Hamdoun
Captain, Judge Advocate
Appellate Defense Counsel
Defense Appellate Division

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was electronically submitted to the Army
Court of Criminal Appeals and the Government Appellate Division on 11
June 2024.



Amir R. Hamdoun
Captain, Judge Advocate
Appellate Counsel
Defense Appellate Division